



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

20792  
MYERS BIGEL SIBLEY & SAJOVEC  
P.O. Box 37428  
Raleigh, NC 27627

24 MAY 2006

In re Application of :  
PERICAK-VANCE *et al* :  
U.S. Application No.: 10/520,695 :  
PCT No.: PCT/US03/21963 :  
Int. Filing Date: 11 July 2003 :  
Priority Date: 12 July 2003 :  
Attorney's Docket No.: 5405.264 :  
For: GENETIC SUSCEPTIBILITY GENES :  
FOR ASTHMA AND ATOPY AND :  
ASTHMA-RELATED AND ATOPIC- :  
RELATED PHENOTYPES :

**DECISION**

This is a decision on applicants' "Response to Decision Regarding Request to Correct Inventorship" filed on 18 May 2006.

**BACKGROUND**

On 12 April 2006, a decision dismissing applicants' petition under 37 CFR 1.497(d) was mailed. Applicants were given two months to respond with extensions of time available.

On 18 May 2006, applicants filed the renewed petition along with a copy of an assignment.

**DISCUSSION**

As previously indicated, 37 CFR 1.497(d) applies when the inventorship in a national stage application filed under 35 U.S.C. 371 differs from that set forth in the international application (see 37 CFR 1.48(f)(1)). 37 CFR 1.497(d) states, in part:

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, or a change to the inventive entity has been effected under PCT Rule 92 bis subsequent to the execution of any declaration which was filed under PCT Rule 4.17(iv), the oath or declaration must be accompanied by:

- (1) A statement from each person being added as an inventor

and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;

(2) The processing fee set forth in § 1.17(i); and

(3) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Applicants previously completed items (1) and (2) of 37 CFR 1.497(d). Applicants also provided a consent form signed by a representative of Duke University. However, applicants failed to establish that Duke University is the assignee of the subject application.

In the renewed petition, applicants have cured this defect. Applicants submitted a copy of the Notice of Recordation of Assignment Document for the subject application identifying the reel and frame number of the assignment and showing that the assignee is Duke University. This is sufficient to satisfy all the requirements of item (3) of 37 CFR 1.497(d). All items of 37 CFR 1.497(d) are now complete.

### CONCLUSION

Applicants' request to add Marcy C. Speer and Michael A. Hauser and remove Jonathan L. Haines as inventors in the above-captioned application pursuant to 37 CFR 1.497(d) is **GRANTED**.

The declaration filed 14 November 2005 is in compliance with 37 CFR 1.497(a) and (b). Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 11 July 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 14 November 2005.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



James Thomson  
Attorney Advisor  
Office of PCT Legal Administration

Tel.: (571) 272-3302